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AUG 3 1 2004

In re Application of	:	OFFICE OF PETITIONS
Kenji Kuwabara	:	
Application No. 10/781,293	:	ON PETITION
Filed: February 17, 2004	:	
Attorney Docket No. 44342.018003	:	

This is a decision on the petition filed May 28, 2004, under 37 CFR 1.182 which is being treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of February 17, 2004.

The petition under 37 CFR 1.53(e) is **granted**.

The application was deposited on February 17, 2004. However, on May 14, 2004, the Office of Initial Patent Examination Division mailed a "Notice of Omitted Items," stating that page number 129 of the specification was omitted from the application on filing.

In response, on May 28, 2004, the instant petition and a copy of page number 129 of the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of 147 pages of the specification on February 17, 2004. A review of the application file indicates the presence of only 146 pages of the specification with page number 129 missing.

MPEP 503 states that "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, since the evidence support the fact that 147 pages of the specification were in fact present on filing, the Notice mailed May 14, 2004 is vacated.

Since the page number 129 of the specification cannot be located in the Office, the copy of page number 129 supplied on February 17, 2004 will be used for processing and examination purposes.

The petition fee of \$130.00 will be credited to deposit account no. 50-1561 as authorized.

This application is being referred to the Office of Initial Patent Examination Division for processing with a filing date of February 17, 2004, and for an indication that 147 pages of the specification were included on filing and for mailing of a filing receipt to indicate the above.

Telephone inquiries concerning this matter may be directed to Karen Creasy at (703) 305-8859.

A handwritten signature in black ink, appearing to read "Brian Hearn", with a stylized flourish at the end.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy